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08/611,764 03/08/96 CUMMINS

B 8039.3806

EXAMINER

PAK, J

12M2/1009

ART UNIT

PAPER NUMBER

BARRY L HALEY
MALIN HALEY DIMAGGIO & CROSBY
ONE EAST BROWARD BLVD
SUITE 1609
FORT LAUDERDALE FL 33301

1209

DATE MAILED:

10/09/96

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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 1 - 5 are pending in the application.

Of the above, claims — are withdrawn from consideration.

2. Claims — have been cancelled.

3. Claims — are allowed.

4. Claims 1 - 5 are rejected.

5. Claims — are objected to.

6. Claims — are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on —. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on —, has (have) been approved by the examiner; disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed —, has been approved; disapproved (see explanation).

12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. —; filed on —.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

EXAMINER'S ACTION

Art Unit 1209

Claims 1-5 are pending in this application.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-5 are rejected under 35 U.S.C. § 103 as being unpatentable over Cosby.

Cosby teaches that strong acid salts of ammonia such as ammonium sulfate has insecticidal effect (column 1, line 46 to column 2, line 31).

While Cosby does not expressly disclose the method of arriving at ammonium sulfate by combining 98% pure sulfuric acid with ammonium sulfate under 15 psi as specifically recited in instant claims, one having ordinary skill in the art would have readily recognized the importance of keeping ammonium sulfate under acidic condition and would thus have utilized strong acids such as sulfuric acid to achieve acidic condition. Specifics of

Art Unit 1209

proportions and reaction conditions are held to be within the skill of the ordinary skilled artisan who is a trained chemist who would have been able to adjust reaction parameters for desired concentration and reaction kinetics.

Thus, the claimed invention, as a should, would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been fairly suggested by Cosby.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pak, whose telephone number is (703)- 308-4538. The examiner can normally be reached on Mondays to Thursdays and on alternate Fridays, from 8:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dees, can be reached on (703)- 308-4628. The fax phone number for this Group is (703)- 308-4556.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1235.

Pak/maj
October 01, 1996


John Pak
Primary Examiner
Group 1200